



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

October 31, 2013

Floridian Natural Gas Storage Company, LLC (FGS)
Attn: Bradley Williams
6 Bash Place, Suite 100
Houston, Texas 71027

Dear Mr. Williams:

I am writing in response to your request for a status letter for the Florida Steel Corporation Superfund Site (Site) and your interest in purchasing a portion of the Site located at 18300 Warfield Road, Indiantown, Florida (Property). My response is based upon the facts presently known to the United States Environmental Protection Agency and is provided solely for informational purposes.

This letter is an update to the Status letter dated October 16, 2006, which memorialized the Prospective Purchaser Inquiry conference call discussions that we had on September 21, 2006. In that call, we addressed four (4) issues critical to the successful redevelopment of a Superfund site:

- (1) The current status of the EPA's cleanup and the EPA's future anticipated actions;
- (2) Obvious incompatibilities between the proposed reuse of the Site and the EPA's cleanup and existing or potential institutional controls (see below for related information);
- (3) The Bona Fide Prospective Purchaser (also referred to as BFPP) provisions of CERCLA and other applicable federal landowner liability protections; and
- (4) CERCLA Section 107(l) liens or CERCLA Section 107(r) windfall liens that may apply to the Site.

Superfund Law

In response to the growing concern over health and environmental risks posed by hazardous waste sites, Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9601 *et seq.*, also known as the Superfund law. The Superfund law required the EPA to establish the Superfund program to address these sites. Contaminated sites are discovered by citizens, businesses, and local, state, or federal agencies. After a potential hazardous waste site is reported to the EPA, the available information is recorded in the EPA's data management system for Superfund which is known as the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). You can find the CERCLIS database at www.epa.gov/superfund/sites/cursites/index.htm. (Click Search and then type in Florida Steel in the Site name field and hit enter which will take you to the Florida Steel Superfund Site web page.)

Internet Address (URL) • <http://www.epa.gov>

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The EPA initially screens a potentially hazardous waste site to determine what type of action, if any, is necessary. The Superfund program may then perform a Preliminary Assessment and possibly a Site Inspection to determine whether contamination at the property is likely to require a federal cleanup response and whether the site should be added to the list of high priority hazardous waste sites known as the National Priorities List (NPL).

History and Status of Site

The Florida Steel Superfund Site is located at 18300 Warfield Boulevard in Indiantown, Florida. From 1970 until 1982 steel from old cars was recycled into steel reinforcement bars for concrete. This process resulted in contamination of the soil and groundwater. Soil at the Site was contaminated with lead, zinc, and polychlorinated biphenyls (PCBs). The lead and zinc in soil resulted from the land disposal of emission control (EC) dust at the Site. EC dust is the residue from air pollution control equipment. The PCB contamination in soil resulted from leaks of hydraulic fluid that contained PCBs. Groundwater at the Site was contaminated with sodium and radium. The sodium in groundwater is due to the periodic discharges from an industrial water softener. The radium is a naturally occurring element that may have been concentrated by the operation and discharge of the water softener.

Cleanup of this Site was undertaken in several phases. The first action was the removal of above ground EC dust piles during the mid 1980's. In addition, the PCB contaminated soil was incinerated on-Site during 1987 to 1988. A Site-wide remedial investigation and feasibility study was completed in 1992 which pinpointed the location and extent of metals contaminated soil as well as some residual PCB contaminated soil. Additional studies also defined the extent of metals contaminated sediment in an adjacent wetland and delineated the groundwater plume. Records of Decision were prepared in 1992 and 1994 to deal with the distinct areas of contamination.

The soil cleanup began in January 1995 and was completed in April 1996. The contaminated soil was treated by solidification and the solidified soil was then disposed in a double lined landfill constructed at the Site. Approximately 100,000 tons of contaminated soil were treated and disposed at the Site. The wetland cleanup was conducted between July and December 1995. Sediment was excavated from the portion of the wetland with the highest metals concentrations. Approximately 75 tons of the excavated sediment were solidified along with the other contaminated soil. The remaining excavated sediment had low levels of metals contamination and was used as a soil amendment in upland areas located on the Site. The disturbed portion of the wetland was replanted with native wetland plants.

The groundwater remedial system installed in 1996 extracted and treated the groundwater until an April 2009 wildfire damaged some of the key components of the groundwater remediation system and rendered it inoperable. Following the wildfire, the EPA, the Florida Department of Environmental Protection (FDEP), and Gerdau, the responsible party, agreed to suspend the remediation system and monitor changes in groundwater quality to see if natural attenuation would address the remaining contamination. Several discussions have occurred between EPA, FDEP and Gerdau regarding the need to reactivate the groundwater treatment system. Most recently in June and July 2013, representatives from Gerdau met with EPA and FDEP to propose reliance on institutional controls in place on the down-gradient land parcel and natural attenuation as the post-active remediation strategy for the Site. In

September 2013, Gerdau submitted findings and recommendations to support this proposal based on contaminant transport modeling. EPA and FDEP are in the process of reviewing these documents and evaluating the proposal.

Institutional controls in the form of restrictive covenants were placed on the property deed to prevent certain uses of the property such as residential, recreational and agricultural. The restrictive covenants are being revised to comply with the most recent State of Florida guidance. These restrictions have been submitted to FDEP for review and approval. In order to ensure that the small amount of groundwater contamination that has migrated off-Site is not used for drinking water, the Site was added to the Memorandum of Agreement (MOA) between the EPA and the South Florida Water Management District (SFWMD). In the MOA the SFWMD agrees to use information provided by the EPA to restrict the issuance of well construction or water use permits in areas impacted by groundwater contamination from Superfund sites. It is my understanding that Gerdau and you are in communication regarding the implementation of institutional controls at the Site.

Five Year Reviews were conducted at the Site in January 2001, May 2006, and September 2011. The 2011 Five Year Review concluded that the remedial actions taken remain protective of human health and the environment in the short term and identified what issues needed to be addressed to ensure long term protectiveness. You should obtain a copy of the latest Five Year Review to ensure you are fully aware of the issues identified and the recommendations for resolution. Five year reviews will be conducted every five years to ensure the remedy remains protective.

It is my understanding that you are purchasing the entire Site property with the exception of the landfill (sometimes called the vault) which covers approximately six acres on the Site and which will continue to be owned by Gerdau.

Proposed Reuse of the Site

As mentioned in our many discussions including the call on September 21, 2006, you wish to purchase the Site in order to operate a natural gas hydrocarbon storage and distribution facility which will include pipelines to connect into the existing natural gas infrastructure. Based upon the facts presently known to the EPA, the Agency is of the opinion that the proposed use of the Property does not pose significant incompatibility issues either with existing or potential future cleanup activities.

As previously mentioned the existing restrictive covenants are being revised to limit uses at the Site and to restrict the use of groundwater until cleanup goals are reached. It is my understanding that Gerdau is coordinating this with you.

The EPA cannot approve any specific use of the Site. It is your sole responsibility to ensure that the proposed use of the Property does not interfere with or impede the cleanup at the Site or interfere with any institutional controls identified now or in the future or further contribute to contamination at the Site. You must consult with your own environmental professionals to obtain advice on the compatibility of the proposed reuse with the EPA's cleanup.

Bona Fide Prospective Purchaser

On January 11, 2002, the Superfund law was amended by Congress to encourage prospective purchasers to buy and redevelop Superfund property. Prior to this amendment, purchasers of Superfund sites were potentially liable for the cleanup of the contaminated property upon purchasing the property. The amendment allows purchasers to buy Superfund sites and avoid potential liability by qualifying as a "bona fide prospective purchaser." A prospective purchaser must achieve and maintain bona fide prospective purchaser status for as long as the potential Superfund liability exists. The bona fide prospective purchaser provision states that a person meeting the criteria of Section 101(40) of the Superfund law is protected from Superfund liability; however, to the extent that the EPA's cleanup efforts increase the fair market value of the property, the EPA may have a windfall lien on the property.

To qualify as a bona fide prospective purchaser a person must meet certain threshold criteria and satisfy certain continuing obligations found in Section 101(40) of the Superfund law. Enclosed for your convenience is a copy of the March 6, 2003, "Interim Guidance Regarding Criteria Landowners Must Meet in Order to Qualify for Bona Fide Prospective Purchaser, Contiguous Property Owner, or Innocent Landowner Limitations on CERCLA Liability" (Common Elements Guidance). The bona fide prospective purchaser provision is designed to be self-implementing. This means that purchasers are responsible for achieving and maintaining bona fide prospective purchaser status. You and your legal counsel will need to assess whether you satisfy each of the eight (8) statutory requirements necessary to achieve bona fide prospective purchaser status and continue to meet the applicable conditions.

Among other requirements, a bona fide prospective purchaser must take "reasonable steps" with respect to stopping continuing releases, preventing threatened future releases, and preventing or limiting human, environmental, or natural resources exposure to earlier releases. You have asked what actions you must take, as the prospective owner of the property, to satisfy the "reasonable steps" criterion. Based on the information the EPA has evaluated to date, the EPA believes that, for an owner of the property, the following would be appropriate reasonable steps with respect to the existing hazardous substance contamination found at the property:

1. Prohibit public or private wells to be installed on the contaminated portions of the property for irrigation or consumption purposes.
2. Call the EPA Region 4's Emergency Response Center hotline at 800-424-8802 to report the discovery or release of any hazardous substances.
3. Coordinate with Gerdau who is performing the remedial work at the Site to discuss the proposed reuse.
4. Do not perform any activities or construct any structures that will or may interfere with the EPA's investigation or cleanup or exacerbate contaminated conditions at the Site.

If you exacerbate contaminated conditions at the Site or cause a release of hazardous substances due to your construction or operations, you may lose bona fide prospective purchaser status and all resulting liability protections.

Superfund Lien

The EPA has not perfected a Superfund lien on this Property. Pursuant to Section 107(l) of the Superfund law, as well as EPA policy and guidance, the EPA will generally not perfect a Superfund lien on property owned by a non-liable party.

Windfall Lien

The EPA has not perfected a windfall lien on this Property. On July 16, 2003, the EPA issued a policy entitled the "EPA Interim Enforcement Discretion Policy Concerning 'Windfall Liens' Under Section 107(r) of CERCLA" (Windfall Lien Policy). The Windfall Lien Policy provides that the EPA, in an exercise of its enforcement discretion, will generally not perfect a Section 107(r) windfall lien when the conditions and criteria described in the Windfall Lien Policy for not perfecting a windfall lien are met. I am enclosing a copy of the Windfall Lien Policy for your review.

State Actions

The EPA is only providing you with information regarding the EPA's actions at the Site and the federal BFPP law. You should contact Chris Pellegrino (850-245-8972) for more information about potential state actions and liability issues.

Conclusion

The EPA remains dedicated to supporting the revitalization of contaminated properties and hopes this information is useful to you. This letter does not provide a release from Superfund liability or from other liability or obligations under any other law. If you have any questions please do not hesitate to call the Site Attorney, Christopher Cole at (404) 562-8168 or me at (404) 562-8939.

Sincerely,



William C. Denman, P.E.
Remedial Project Manager

Enclosures

cc: Chris Pellegrino, FDEP
Bianca N. Jaikaran, Land Revitalization Legal Coordinator, EPA Region 4